Filed 5/18/10 Marriage of Davis CA3

NOT TO BE PUBLISHED

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(San Joaquin)

In re the Marriage of SHEILA W. and ROBERT L. DAVIS.	
SHEILA W. DAVIS, Appellant, v. ROBERT L. DAVIS, Respondent.	C060633 (Super. Ct. No. FL310787)

Sheila Davis (Wife) appeals in propria persona from a trial court order denying her motion for reconsideration of the trial court's order reserving spousal support. For the reasons stated below, we shall affirm.

Wife has elected to proceed on a clerk's transcript. (Cal. Rules of Court, rule 8.121.) Thus, the appellate record does not include a reporter's transcript of the hearing in this matter. This is referred to as a "judgment roll" appeal. (*Allen v. Toten* (1985) 172 Cal.App.3d 1079, 1082-1083; *Krueger v. Bank of America* (1983) 145 Cal.App.3d 204, 207.)

The limited record we have establishes the following:

The parties married in 1986 and separated in 2000. The trial court ordered Robert (Husband) to pay to Wife $1,000 each month in spousal support. The parties' later attempts to reconcile failed, and they separated again in September 2003.

A judgment of dissolution was granted in January 2005, but later set aside after Wife retained counsel. Wife's award of $1,000 per month in spousal support was continued and she was given a *Gavron*[1] admonition "requiring her to seek work or take other steps to become self-supporting."

In June 2007, Husband agreed to continue paying $1,000 per month in spousal support to Wife until January 1, 2008, at which time the issue would be reviewed. It was understood by both parties that in January 2008, spousal support would be either reduced or "reserved."

In March 2008, Husband filed a motion to terminate spousal support. Wife failed to appear at the hearing on Husband's motion and her support was reduced to zero. Wife later filed a motion to set aside the order. Another hearing was held in June 2008, and the trial court changed its order for zero spousal support to one reserving spousal support. Wife moved to have that order reconsidered.

Wife's motion for reconsideration was heard by the trial court in August 2008. The parties both appeared without counsel; each presented testimony, written evidence, and

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1 *In re Marriage of Gavron* (1988) 203 Cal.App.3d 705.

argument. The trial court took the matter under submission and, shortly thereafter, issued a written order denying Wife's request to reconsider the order for reserved spousal support. In so ruling, the trial court found "[t]here are no new facts upon which the court should change [its] order."

Wife appeals that decision.

DISCUSSION

When an appeal is "on the judgment roll" (*Allen v. Toten*, supra, 172 Cal.App.3d at pp. 1082-1083), we must conclusively presume evidence was presented that is sufficient to support the court's findings. (*Ehrler v. Ehrler* (1981) 126 Cal.App.3d 147, 154.) Our review is limited to determining whether any error "appears on the face of the record." (*National Secretarial Service, Inc. v. Froehlich* (1989) 210 Cal.App.3d 510, 521; Cal. Rules of Court, rule 8.163.)

Here, Wife claims the trial court erred in denying her motion to reconsider its order reducing her spousal support to an order for "reserved" support. Without a reporter's transcript, however, we "'must conclusively presume that the evidence is ample to sustain the [trial court's] findings.'" (*Ehrler v. Ehrler, supra*, 126 Cal.App.3d at p. 154.) That is, the law compels us to assume the evidence presented to the trial court supports its decision that no new facts were established to support a grant of reconsideration.

Wife's claims that the trial court erred because no marital standard of living had been established and that she has not been given sufficient opportunity to become self-supporting are

not properly before the court at this time. Those claims relate to the trial court's initial ruling to reserve support, not the court's denial of the motion for reconsideration. However, even if the claims were properly before this court, because the record on appeal does not include a reporter's transcript of that hearing, we would have to presume the evidence submitted was sufficient to support the court's decision. (*Ehrler v. Ehrler, supra*, 126 Cal.App.3d at p. 154.)

Accordingly, we find no error on the face of this record.

DISPOSITION

The judgment is affirmed. The parties shall bear their own costs on appeal, if any. (Cal. Rules of Court, rule 8.278(a)(5).)

SIMS, Acting P. J.

We concur:

HULL, J.

CANTIL-SAKAUYE, J.